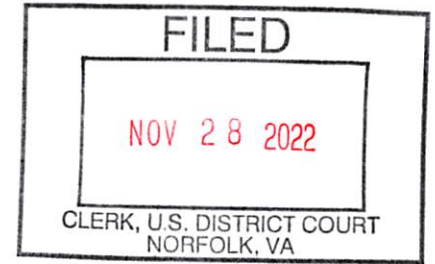


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division



CHRISTOPHER LACCINOLE,

Plaintiff,

v.

ACTION NO. 2:21cv507

COVA HOME REALTY LLC, *et al.*,

Defendants.

ORDER

This matter is before the Court on (i) a Motion to Dismiss filed by Defendant COVA Home Realty LLC (“COVA”), ECF No. 17; and (ii) a Motion to Amend filed by *pro se* Plaintiff Christopher Laccinole (“Plaintiff”), ECF No. 19. Both motions are addressed in detail below.

I. Relevant Background and Discussion

In an Order entered on May 16, 2022, the Court authorized the filing of Plaintiff’s Amended Complaint. Order at 1-4, ECF No. 16. Thereafter, COVA filed a Motion to Dismiss. Mot. Dismiss, ECF No. 17. In response, Plaintiff filed a Motion to Amend pursuant to Federal Rule 15(a)(2), in which Plaintiff seeks authorization to file a Second Amended Complaint “that remedies the issues raised by COVA’s recent [M]otion to [D]ismiss.” Mot. Amend at 1-3, ECF No. 19. Plaintiff attached a proposed Second Amended Complaint to his Motion to Amend, and states that his proposed filing (i) omits three counts that Plaintiff asserted against COVA in his Amended Complaint; (ii) provides additional factual details regarding his remaining counts; and (iii) names three new Defendants who were identified by COVA “as responsible persons for the conduct complained of in this matter.” *Id.* at 1-2; *see* Proposed Second Am. Compl., ECF No. 19-1. Plaintiff argues that COVA “will not be prejudiced in any way by the amendment” and will, in fact, “benefit from the withdrawal of three . . . counts.” Mot. Amend at 2.

Two weeks after Plaintiff filed his Motion to Amend, COVA filed a “Consent Motion for Leave for an Additional 10-Days to Respond to Plaintiff’s [Motion to Amend]” (“Consent Motion for Extension”). Consent Mot. Extension, ECF No. 20. In its Consent Motion for Extension, COVA stated: “Plaintiff and [COVA] are currently attempting to resolve their differences, and the additional time would help determine whether [COVA] should oppose Plaintiff’s Motion [to Amend].” *Id.* at 1.

The Court granted COVA’s Consent Motion for Extension. Order at 1, ECF No. 21. However, COVA’s extended deadline to respond to Plaintiff’s Motion to Amend has expired, and COVA chose not to file a response. Thus, Plaintiff’s Motion to Amend remains unopposed.

Under these circumstances, and in deference to Plaintiff’s *pro se* status, the Court hereby **GRANTS** Plaintiff’s unopposed Motion to Amend, ECF No. 19. *See* Fed. R. Civ. P. 15(a)(2) (explaining that a court “should freely give leave [to amend] when justice so requires”). The Clerk is **DIRECTED** to file Plaintiff’s proposed Second Amended Complaint, currently docketed at ECF No. 19-1, as a separate entry on the docket of this matter.

An amended complaint supersedes a prior complaint and renders it of no legal effect. *See Young v. City of Mt. Rainier*, 238 F.3d 567, 572 (4th Cir. 2001). Because the Court hereby grants Plaintiff’s Motion to Amend, and Plaintiff’s Second Amended Complaint will serve as the operative complaint in this action, COVA’s Motion to Dismiss, ECF No. 17, which seeks the dismissal of Plaintiff’s Amended Complaint, is **DISMISSED as moot**. COVA is **ORDERED** to file a responsive pleading to Plaintiff’s Second Amended Complaint within fourteen days of the date of entry of this Order.

As noted above, Plaintiff names new Defendants in his Second Amended Complaint. The Clerk is **DIRECTED** to issue summonses for the newly named Defendants and to send service packets to Plaintiff via United States Mail. Because Plaintiff paid the filing fees when he initiated

this action, Plaintiff is responsible for effecting service of process on the new Defendants. Plaintiff is **ORDERED** to serve the new Defendants within sixty days of the date of entry of this Order.


II. Conclusion

For the reasons set forth above, Plaintiff's Motion to Amend, ECF No. 19, is **GRANTED**. The Clerk is **DIRECTED** to file Plaintiff's proposed Second Amended Complaint, currently docketed at ECF No. 19-1, as a separate entry on the docket of this matter. COVA's Motion to Dismiss, ECF No. 17, is **DISMISSED as moot**. COVA is **ORDERED** to file a responsive pleading to Plaintiff's Second Amended Complaint within fourteen days of the date of entry of this Order. The Clerk is further **DIRECTED** to issue summonses for the new Defendants named in Plaintiff's Second Amended Complaint and to send service packets to Plaintiff via United States Mail. Plaintiff is **ORDERED** to serve the new Defendants within sixty days of the date of entry of this Order.

In addition to the instructions listed above, the Clerk is **DIRECTED** to send a copy of this Order to Plaintiff and all counsel of record.

IT IS SO **ORDERED**.

Norfolk, Virginia
November 28, 2022



Raymond A. Jackson
UNITED STATES DISTRICT JUDGE